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EXAMINER	
NAJARIAN, LENA	
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3686	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/774,791	NEUMAN ET AL.	
	Examiner	Art Unit	
	LENA NAJARIAN	3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 September 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9,14,17,19-22,24-31,34,36,38,42-45,47,49 and 89-91* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,14,17,19-22,24-31,34,36,38,42-45,47,49 and 89-91* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 9/3/09. No claims have been amended. Claims 1-9, 14, 17, 19-22, 24-31, 34, 36, 38, 42-45, 47, 49, and 89-91 remain pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2, 9, 14, 17, 19-21, 24-27, 29-31, 34, 36, 38, 42-45, 47, 49, and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al. (US 6,421,650 B1) in view of Lion (US 6,330,491 B1), and further in view of Engelson et al. (US 6,671,563 B1).

(A) Referring to claim 1, Goetz discloses a method comprising:

entering via an electronic prescription creation device a prescription for a drug (abstract, lines 1-12 of Goetz; the Examiner interprets “medication management system” to be a form of “prescription creation device”);

viewing a drug use evaluation alert on a graphical user interface of the electronic prescription creation device (abstract, lines 19-25 & col. 4, lines 50-52 of Goetz);

viewing on the graphical user interface a query of whether a user desires to override the drug use evaluation alert;

entering via the electronic prescription creation device an override of the drug use evaluation alert (col. 12, lines 3-10 of Goetz);

transmitting the prescription and override over a network to a prescription processor (col. 12, lines 51-59 and col. 6, lines 22-26 of Goetz);

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription (col. 11, line 52 – col. 12, line 10 of Goetz).

Goetz does not disclose transmitting the prescription information directly to a prescription processor.

Lion discloses transmitting the prescription information directly to a prescription processor (col. 5, lines 18-26 of Lion).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Lion within Goetz. The motivation for doing so would have been for the pharmacist to receive valid prescription requests (col. 5, lines 26-37 of Lion).

While Goetz does disclose receiving an override from a prescribing physician (see col. 12, lines 3-10 of Goetz), Goetz and Lion do not disclose receiving a *reason* for overriding the drug use evaluation alert.

Engelson discloses receiving a reason for overriding the alert from a user (col. 9, lines 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(B) Referring to claims 2 and 9, Goetz discloses viewing on the graphical user interface a plurality of representations and selecting via the electronic prescription creation device at least one of the plurality of representations (Fig. 19 & Fig. 20 of Goetz).

Goetz and Lion do not disclose representations each corresponding to a motive for overriding the drug use evaluation alert.

Engelson discloses entering the appropriate command and reason in order to override the alert (col. 9, linrd 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(C) Referring to claim 14, Goetz discloses the prescription being an electronic prescription (Fig. 22 of Goetz).

(D) Referring to claim 17, Goetz discloses the drug use evaluation alert being:

a drug-allergy alert (col. 10, lines 7-9 of Goetz);

a drug-drug interaction alert (abstract, lines 29-31 of Goetz);

a drug-food interaction alert (col. 4, lines 62-65 of Goetz); and

an alcohol conflict alert (col. 4, lines 62-65 of Goetz);

(E) Referring to claim 19, Goetz discloses the electronic prescription creation device being a personal digital assistant (col. 5, lines 36-40 of Goetz).

(F) Referring to claim 20, Goetz discloses a method comprising:

entering via an electronic prescription creation device a prescription for a drug (abstract, lines 8-12 of Goetz);

viewing a drug use evaluation alert on a graphical user interface of the electronic prescription creation device (abstract, lines 19-25 & col. 4, lines 50-52 of Goetz);

transmitting the prescription and override from the drug use evaluation alert over a network to a prescription processor (col. 12, lines 51-59 and col. 6, lines 22-26 of Goetz);

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription (col. 11, line 52 – col. 12, line 10 of Goetz).

Goetz does not disclose transmitting the prescription information directly to a prescription processor.

Lion discloses transmitting the prescription information directly to a prescription processor (col. 5, lines 18-26 of Lion).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Lion within Goetz. The motivation for doing so would have been for the pharmacist to receive valid prescription requests (col. 5, lines 26-37 of Lion).

While Goetz does disclose receiving an override from a prescribing physician (see col. 12, lines 3-10 of Goetz), Goetz and Lion do not disclose receiving a *reason* for overriding the drug use evaluation alert.

Engelson discloses receiving a reason for overriding the alert (col. 9, lines 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(G) Referring to claim 21, Goetz discloses viewing on the graphical user interface a plurality of representations and selecting via the electronic prescription creation device at least one of the plurality of representations (col. 16, lines 42-47, Fig. 19, and Fig. 20 of Goetz).

Goetz and Lion do not disclose representations each corresponding to a motive for overriding the drug use evaluation alert and entering a reason for overriding the drug use evaluation alert.

Engelson discloses entering a reason for overriding the alert (col. 9, lines 13-24 of Engelson) and entering the appropriate command and reason in order to override the alert (col. 9, line 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(H) Referring to claim 24, Goetz discloses the prescription including an indication that a user has overridden the drug use evaluation alert (col. 16, lines 42-47 of Goetz).

(I) Claim 25 differs from method claim 1 by reciting “a computer-readable medium having instructions stored thereon” within its preamble. As per these elements, Goetz’s medication management system includes a smart card reader and a software application on a personal computer, which reads data from the memory device (col. 5, lines 36-64 of Goetz). As such, it is readily apparent that Goetz’s medication management system is controlled by instructions stored upon a computer-readable medium.

The remainder of claim 25 repeats the same limitations of method claim 1, and is therefore rejected for the same reasons given above for claim 1, and incorporated herein.

(J) Referring to claims 26 and 27, Goetz discloses the instructions when executed by the electronic prescription creation device further causing the electronic prescription creation device to:

present on the graphical user interface a plurality of instructions (col. 16, lines 42-47 of Goetz).

While Goetz does disclose receiving an override from a prescribing physician (see col. 12, lines 3-10 of Goetz), Goetz and Lion do not disclose that the instructions are motives for overriding the drug use evaluation alert and receiving from the user a reason for overriding the drug use evaluation alert, the reason for overriding the drug use evaluation alert being at least one of the plurality of motives presented on the graphical user interface.

Engelson discloses a user entering a reason for overriding the alert (col. 9, lines 13-24 of Engelson) and entering the appropriate command and reason in order to override the alert (col. 9, line 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(K) Claim 29 differs from method claim 24 by reciting "a computer-readable medium" within its preamble. As per these elements, Goetz's medication management system includes a smart card reader and a software application on a personal computer, which reads data from the memory device (col. 5, lines 36-64 of Goetz). As such, it is readily apparent that Goetz's medication management system is controlled by instructions stored upon a computer-readable medium.

Claim 29 also recites: including with the prescription the reason for overriding the drug use evaluation alert. As per this limitation, Engelson discloses entering a reason for overriding the alert (col. 9, lines 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

The remainder of claim 29 repeats the same limitations of method claim 24, and is therefore rejected for the same reasons given above for claim 24, and incorporated herein.

(L) Referring to claim 30, Goetz discloses the instructions when executed by the electronic prescription creation device further causing the electronic prescription creation device to:

include with the prescription the drug use evaluation alert (col. 16, lines 42-47 of Goetz).

(M) Claim 31 differs from method claim 14 by reciting "a computer-readable medium" within its preamble. As per these elements, Goetz's medication management system includes a smart card reader and a software application on a personal computer, which reads data from the memory device (col. 5, lines 36-64 of Goetz). As such, it is readily apparent that Goetz's medication management system is controlled by instructions stored upon a computer-readable medium.

The remainder of claim 31 repeats the same limitations of method claim 14, and is therefore rejected for the same reasons given above for claim 14, and incorporated herein.

(N) Referring to claim 34, Goetz discloses the instructions when executed by the electronic prescription creation device further causing the electronic prescription creation device to:

communicate to a workstation via a network overriding the drug use evaluation alert (col. 16, lines 42-47 & col. 6, lines 1-9 of Goetz).

Goetz and Lion do not disclose including the reason for overriding the alert.

Engelson discloses entering a reason for overriding the alert (col. 9, lines 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(O) Referring to claim 36, Goetz discloses the instructions when executed by an electronic prescription creation device cause the electronic prescription creation device to:

create a prescription for a patient (Fig. 20 of Goetz);

present on a graphical user interface of the electronic prescription creation device a plurality of representations (col. 16, lines 42-47 of Goetz); and

receive from a prescribing physician a selection of one of the plurality of representations; and (Fig. 19 of Goetz)

transmit the prescription and selected representation over a network to a prescription processor (col. 12, lines 51-59 and col. 6, lines 22-26 of Goetz);

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription (col. 11, line 52 – col. 12, line 10 of Goetz).

Goetz does not disclose transmitting the prescription information directly to a prescription processor.

Lion discloses transmitting the prescription information directly to a prescription processor (col. 5, lines 18-26 of Lion).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Lion within Goetz. The motivation for doing so

would have been for the pharmacist to receive valid prescription requests (col. 5, lines 26-37 of Lion).

Goetz and Lion do not disclose representations each corresponding to a motive for overriding the drug use evaluation alert.

Engelson discloses entering the appropriate command and reason in order to override the alert (col. 9, linrd 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(P) Claim 38 repeats substantially the same limitations of claim 29, and is therefore rejected for the same reason given for that claim.

(Q) Referring to claim 42, Goetz discloses the indication and reason being received by a pharmacy (col. 6, lines 1-9 of Goetz).

(R) Referring to claim 43, Goetz discloses further comprising forwarding the indication and reason to at least one of a pharmacy benefit management company and a claims processor (col. 2, lines 22-27 of Goetz; the Examiner interprets “insurance providers” to be a form of “claims processor”).

(S) Referring to claim 44, Goetz discloses the indication and reason being received by a service provider of software for the electronic device (col. 5, lines 56-64 of Goetz).

(T) Referring to claim 45, Goetz discloses a computer data signal embodied in a computer readable medium comprising (Fig. 1, col. 4, lines 17-33, & col. 8, lines 59-65 of Goetz):

computer-readable program code causing an electronic prescription creation device to create an electronic prescription (Fig. 29 and col. 8, lines 52-67 of Goetz);

computer-readable program code causing an electronic prescription creation device to present a prescribing physician using the electronic prescription creation device a drug use evaluation alert (col. 12, lines 12-21 & 51-59 of Goetz);

computer-readable program code for causing an electronic prescription creation device to query whether the prescribing physician desires to override the drug use evaluation alert; computer-readable program code for causing an electronic prescription creation device to receive an override of the drug use evaluation alert (Fig. 23, Fig. 24, and col. 11, lines 29-39 of Goetz);

computer-readable program code for transmitting the override over a network to a prescription processor (Fig. 1, col. 12, lines 51-59, and col. 6, lines 22-26 of Goetz);

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation; and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription (col. 11, lines 52 - col. 12, line 10 of Goetz).

Goetz does not disclose transmitting the prescription information directly to a prescription processor.

Lion discloses transmitting the prescription information directly to a prescription processor (col. 5, lines 18-26 of Lion).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Lion within Goetz. The motivation for doing so would have been for the pharmacist to receive valid prescription requests (col. 5, lines 26-37 of Lion).

Goetx and Lion do not disclose receiving from the user a reason for overriding the drug use evaluation alert and transmitting the selected representation for overriding the drug use evaluation alert.

Engelson discloses a user entering a reason for overriding the alert (col. 9, lines 13-24 of Engelson) and transmitting the appropriate command and reason for overriding the alert (col. 9, line 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(U) Referring to claim 47, Goetz discloses an electronic device configured to create prescriptions, the electronic device including means for querying whether the prescribing physician desires to override the drug use evaluation alert, the electronic device including means for receiving an override of the drug use evaluation from the prescribing physician, (Fig. 23 & Fig. 24 of Goetz), the electronic device including

means for transmitting the override for the drug use evaluation over a network to a prescription processor (Fig. 6, col. 8, lines 52-67, and col. 11, lines 29-37 of Goetz);

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the prescribing physician, the prescription processor processes the prescription (col. 11, line 52 – col. 12, line 10 of Goetz).

Goetz does not disclose transmitting the prescription information directly to a prescription processor.

Lion discloses transmitting the prescription information directly to a prescription processor (col. 5, lines 18-26 of Lion).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Lion within Goetz. The motivation for doing so would have been for the pharmacist to receive valid prescription requests (col. 5, lines 26-37 of Lion).

Goetz and Lion do not disclose means for receiving a reason for overriding the drug use evaluation alert and transmitting the reason for overriding the drug use evaluation alert.

Engelson discloses means for receiving a reason for overriding the alert (col. 9, lines 13-24 of Engelson) and transmitting the reason for overriding the alert (col. 9, line 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(V) Referring to claim 49, Referring to claim 49, Goetz discloses computer executable software code stored on a computer readable medium of an electronic prescription creation device comprising the code for generating a graphical user interface, wherein the graphical user interface comprises (col. 12, lines 51-59 & col. 4, lines 50-52; the Examiner interprets "software routine" to be a form of "software code"):

at least one representation querying whether a prescribing physician desires to override a drug use evaluation alert (col. 11, lines 29-39 of Goetz);

at least one representation allowing the prescribing physician to transmit the override over a network (col. 11, lines 29-39 and col. 6, lines 22-26 of Goetz).

Goetz does not disclose transmitting the prescription information directly to a prescription processor.

Lion discloses transmitting the prescription information directly to a prescription processor (col. 5, lines 18-26 of Lion).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Lion within Goetz. The motivation for doing so would have been for the pharmacist to receive valid prescription requests (col. 5, lines 26-37 of Lion).

Goetz and Lion do not disclose at least one representation for receiving and transmitting a reason for overriding the drug use evaluation alert.

Engelson discloses at least one representation for receiving and transmitting a reason for overriding the alert (col. 9, lines 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Lion. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(W) Referring to claim 90, Goetz discloses wherein the prescription includes information communicating the drug use evaluation alert (col. 11, lines 48-62 of Goetz).

4. Claims 3-8, 22, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al. (US 6,421,650 B1) in view of Lion (US 6,330,491 B1), in view of Engelson et al. (US 6,671,563 B1), and further in view of Edelson et al. (5,737,539).

(A) Referring to claims 3-8, Goetz, Lion, and Engelson do not disclose the plurality of representations including: a representation that a patient is no longer taking a conflicting drug, a representation that a patient is stabilized on the drug for the prescription, a representation that a patient is not allergic to the drug for the prescription, a representation that a dosage of the drug is appropriate for a patient's weight, a

representation that a dosage of the drug is appropriate for a patient's condition, and a representation that a patient is not pregnant.

Edelson discloses a representation that a patient is no longer taking a conflicting drug (col. 31, lines 39-46 if Edelson; the Examiner interprets “expired prescriptions” to be a form of “no longer taking”), a representation that a patient is stabilized on the drug for the prescription (col. 31, lines 39-46 of Edelson), a representation that a patient is not allergic to the drug for the prescription (col. 31, lines 25-32 of Edelson), a representation that a dosage of the drug is appropriate for a patient's weight (col. 25, line 64 – col. 26, line 10 of Edelson), a representation that a dosage of the drug is appropriate for a patient's condition (col. 2, lines 18-24 of Edelson), and a representation that a patient is not pregnant (col. 25, line 64 – col. 26, line 10 of Edelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Edelson within Goetz, Lion, and Engelson. The motivation for doing so would have been to screen for possible unintended adverse outcomes and to provide special precautions regarding a prescribed drug’s use (col. 30, lines 58-60 of Edelson).

(B) Referring to claim 22, Goetz, Lion, and Engelson do not disclose the plurality of representations including at least one of the following: a representation that the patient is no longer taking a conflicting drug a representation that the patient is stabilized on the drug for the prescription; a representation that the patient is not allergic to the drug for

the prescription; a representation that a dosage of the drug is appropriate for the patient's weight; a representation that the dosage of the drug is appropriate for the patient's condition; a representation that the patient is not pregnant; a representation of a narrow therapeutic drug index; a representation that a concurrent diagnosis prohibits another selection; a representation of a failed therapy; and a representation that the patient is unable to take another selection.

Edelson discloses the plurality of representations including: a representation that the patient is no longer taking a conflicting drug (col. 31, lines 39-46 of Edelson); a representation that the patient is stabilized on the drug for the prescription (col. 31, lines 39-46 of Edelson); a representation that the patient is not allergic to the drug for the prescription (col. 31, lines 25-32 of Edelson); a representation that a dosage of the drug is appropriate for the patient's weight (col. 25, line 64 – col. 26, line 10 of Edelson); a representation that the dosage of the drug is appropriate for the patient's condition (col. 2, lines 18-24 of Edelson); and a representation that the patient is not pregnant (col. 25, line 64 – col. 26, line 10 of Edelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Edelson within Goetz, Lion, and Engelson. The motivation for doing so would have been to screen for possible unintended adverse outcomes and to provide special precautions regarding a prescribed drug's use (col. 30, lines 58-60 of Edelson).

(C) Claim 28 differs from method claim 22 by reciting a "computer-readable medium" within its preamble. As per these elements, Edelson's electronic prescription creation system includes a device that can interpret bar-coding (col. 29, lines 35-41 of Edelson). As such, it is readily apparent that Edelson's electronic prescription creation system includes a computer-readable medium.

The remainder of claim 28 repeats the same limitations of method claim 22, and is therefore rejected for the same reasons given above for claim 22, and incorporated herein.

5. Claims 89 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al. (US 6,421,650 B1) in view of Simcox (5,992,890), and further in view of Engelson et al. (US 6,671,563 B1).

(A) Referring to claim 89, Goetz discloses a method comprising:

entering via an electronic prescription creation device a prescription for a drug (abstract, lines 1-12 of Goetz; the Examiner interprets "medication management system" to be a form of "prescription creation device");

viewing a drug use evaluation alert on a graphical user interface of the electronic prescription creation device (abstract, lines 19-25 & col. 4, lines 50-52 of Goetz);

viewing on the graphical user interface a query of whether a user desires to override the drug use evaluation alert and receiving from a prescribing physician via the

electronic prescription creation device an override of the drug use evaluation alert (col. 12, lines 3-10 of Goetz);

Goetz does not disclose creating a paper prescription printed with a printer in communication with the electronic prescription creation device containing the override and the reason for overriding.

Simcox discloses creating a paper prescription containing information printed with a printer in communication with the electronic prescription creation device (Fig. 3 and col. 5, lines 3-25 of Simcox).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Simcox within Goetz. The motivation for doing so would have been to provide a printed copy of the completed prescription for the patient (col. 5, lines 23-25 of Simcox).

Goetz and Simcox do not disclose receiving via the electronic prescription creation device a reason for overriding the drug use evaluation alert.

Engelson discloses receving a reason for overriding the alert (col. 9, lines 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Simcox. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

(B) Referring to claim 91, Goetz discloses a computer-readable medium having instructions stored thereon, the instructions when executed by an electronic prescription creation device cause the electronic prescription creation device to (col. 1, lines 51-59 of Goetz):

create a prescription for a patient (Fig. 20 of Goetz);

present on a graphical user interface of the electronic prescription creation device a drug use evaluation alert (Fig. 23 of Goetz);

present on a graphical user interface a representation that queries whether a prescribing physician desires to override the drug use evaluation alert (col. 11, lines 29-39 of Goetz); and

receive from the prescribing physician an override of the drug use evaluation alert (col. 11, lines 29-39 of Goetz);

Goetz does not disclose to create a paper prescription printed with a printer in communication with the electronic prescription creation device containing the override and the reason for overriding.

Simcox discloses to create a paper prescription containing information printed with a printer in communication with the electronic prescription creation device (Fig. 3 and col. 5, lines 3-25 of Simcox).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Simcox within Goetz. The motivation for doing

so would have been to provide a printed copy of the completed prescription for the patient (col. 5, lines 23-25 of Simcox).

Goetz and Simcox do not disclose receiving from the user a reason for overriding the drug use evaluation alert.

Engelson discloses a user entering a reason for overriding the alert (col. 9, lines 13-24 of Engelson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Engelson within Goetz and Simcox. The motivation for doing so would have been to indicate why a discrepancy has been corrected (col. 9, lines 13-24 of Engelson).

Response to Arguments

6. Applicant's arguments filed 9/3/09 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 9/3/09.

(1) Applicant argues that Engelson is not a reference that a person of ordinary skill of prescription fulfillment would consider since Engelson is directed towards administration tracking of medication administration in a hospital. Engelson does not teach the limitation of receiving from the physician a basis for over-riding a drug interaction alert.

(A) As per the first argument, the Examiner respectfully submits that Goetz teaches receiving an override from a prescribing physician (see col. 12, lines 3-10 of Goetz). The feature of providing a reason for overriding an alert in the software art is old and well-known, as evidenced by Engelson. Engelson was relied upon to teach receiving a *reason* for overriding an alert (col. 9, lines 13-24 of Engelson). In response to applicant's argument that Engelson is directed towards administration tracking in a hospital, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENA NAJARIAN whose telephone number is (571) 272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/L. N./
Examiner, Art Unit 3686
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11/30/09

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686